

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

No. 1:07-CR-94

v.

Hon. Robert Jonker

DANIEL DOYLE BENHAM,

Defendant.

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The Government respectfully requests the Court to include the attached questions on its voir dire of the jury, and requests leave to offer such other and additional questions as may become appropriate.

Respectfully submitted,

CHARLES R. GROSS  
United States Attorney

Dated: September 22, 2008

/s/ Donald A. Davis  
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DONALD A. DAVIS  
Assistant United States Attorney  
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GOVERNMENT'S REQUESTED VOIR DIRE

1. What is your occupation and, if you are married, the occupation of your spouse?
2. How long have you been at that job?
3. Do you have any children? If so, are they married, and what are their occupations?
4. Where did you work prior to your present job or retirement?
5. Where has your spouse worked prior to his/her present job or retirement?
6. Have you heard anything about this case before coming into the courtroom today? If so, what have you heard and from whom?
7. The defendant in this case is Daniel Doyle Benham. Do you, or any members of your family, or any of your friends, to the best of your knowledge, know the defendant? If so, how?
8. Representing the United States in this matter is Donald A. Davis, Assistant United States Attorney, from Grand Rapids, Michigan. Do any of you, your relatives or any of your friends, to the best of your knowledge, know him?
9. Devon Becket, nee (Thomas), Adam Billmier and Paula Cochran are employees of the Internal Revenue Service or the United States Department of Treasury. Do any of you, your relatives or your friends, to the best of your knowledge, know them?
10. The Defendant is represented by John Karafa. Do any of you, your relatives or your friends, to the best of your knowledge, know Mr. Karafa?
11. This case involves charged criminal violations of the federal criminal tax laws and bankruptcy fraud. This is not a civil proceeding. Is there anything about this type of case that would make you hesitate to sit on this jury?

12. At the end of the case, I will instruct you on the law applicable to the case, including certain provisions of the Internal Revenue Code. Will any of you have any difficulty in accepting and applying the laws as given to you?

13. If you are chosen as a juror in this case it will be your responsibility to decide the facts. It is my responsibility to decide questions of law and my responsibility to tell you what the law is. Our system of laws does not permit you as jurors to disregard my instructions on the law regardless of your personal beliefs. Can each of you accept and obey this concept?

14. This case initially was investigated by the Internal Revenue Service and the Department of Treasury. Have you or any members of your family or any of your friends, to the best of your knowledge, had any experiences with either or any agency of the United States government that would or could prejudice you for or against the government?

15. Have you, your friends, or relatives ever been audited or assessed a penalty by the Internal Revenue Service? If so:

- a. When?
- b. Was the matter resolved to your or their satisfaction?
- c. Were you or they treated fairly and courteously by government officials?
- d. Are you resentful or do you or they hold any grudges against the government or against government officials?

16. Have you ever had an unpleasant experience with any federal law enforcement officer or with any law enforcement officer?

17. Have you or your friends or relatives ever been a party of any legal action or proceeding involving the United States, its officers, agents or employees?

18. Does any department or agency of the United States government have a claim against any of you or your friends or your relatives? If so, would such a claim or suit affect your ability to give either side a fair and impartial trial?

19. This is a criminal case - the conduct of the defendant are on trial; the IRS is not on trial; nor is our system of taxation; nor are the spending practices of the Government. Would any of you be tempted to improperly use this trial to express your views on those or other subjects?

20. Is there anybody who holds strong personal or philosophical feelings about the tax system of the United States of America? If so, what are your feelings?

21. Do any of you claim that the income tax laws of the United States are unconstitutional and/or that any amendment of the United States Constitution was not properly ratified?

22. Do any of you claim that wages, salaries or compensation received for services are non-taxable?

23. Do any of you own a trust or serve as a trustee or are the beneficiary of a trust?

24. Do any of you claim:

a. That a citizen of the State of Michigan is not, for tax or any other purpose, a citizen of the United States?

b. That the tax laws pertain only to federal employees or to the District of Columbia, Puerto Rico or federal enclaves?

c. That the payment of federal income taxes is voluntary?

d. That there is a distinction in tax law between a "person" and a "natural person"?

25. Do any of you have any disagreement with the idea that every person is obligated to obey the income tax laws, as well as the other laws of this country?

26. Do any of you have any relative or friends that harbor any of the sentiments that I have referred to in my last several questions?

27. Have you heard such sentiments expressed by anyone; if so, under what circumstances?

28. Some of the witnesses for the government in this case will be Internal Revenue Service or Department of Treasury agents or employees. Do any of you have any feelings which might tend to make you favor or disfavor these witnesses, or give any more or less credibility to their testimony?

29. Do any of you feel that violations of the federal income tax laws should not be prosecuted as crimes by the government of the United States?

30. Are you or any of your close friends or relatives a member of or affiliated with any of the following groups, organizations or individuals: Save a Patriot Fellowship (John Kotmair), The Lawmen, Michigan Militia, The Posse Comitatus, Republic Radio Network, Patriot Network, Lowell (Larry) Becraft, Joe Bannister, Lynne Merdith, "We the People," Otto Skinner, Irwin Schiff, Larken Rose, Milton Hargraves Baxley II, Bryan Malatesta, American Rights Litigators, or the Darian Group, William (Bill) Julian?

31. Are you or any of your friends or relatives affiliated with or a member of any group or organization, whether formal or informal, which is engaged in the study of or protest against tax laws or tax policy?

32. Have you or any of your friends or relatives with whom you have frequent contact ever attended a lecture, seminar or discussion group organized by or attended by individuals thought by you to be so-called "tax protestors"?

33. Have any of you or any of your friends or relatives ever been involved in a protest against some law or policy of the government? If so, what were you protesting? When did that take place? What are your feelings about such protestors generally?

34. Do any of you and/or your spouse prepare your own income tax returns?

35. Do any of you have someone such as an attorney, accountant or income tax preparer prepare your income tax returns for you?

36. Have any of you or any members of your family or any of your family ever studied bookkeeping or accounting?

37. Have any of you or any members of your family ever been involved in a court proceeding of any kind?

38. Have any of you ever served on a trial jury in either federal or state court? If so, was it a civil or criminal case? If criminal, what were the charges against the defendant? Did that jury reach a verdict?

39. Have you or any members of your family, or any friends, ever been charged with a criminal offense? (If any potential juror answers this question in the affirmative, the government requests the circumstances, be explored in private, so as to avoid embarrassment to the potential juror).

a. What was the nature of the offense?

b. What happened after you were charged?

c. Would this prevent you from reaching a verdict based only on the law evidence in this case?

40. Do any of you have any sympathy for, or feelings against, the Defendant or the Government which would prevent you from deciding this case solely upon the evidence heard in open court and instructions given to you by the Court?

41. Have any of you heard, read, or seen anything that has caused you to form an opinion in this case so that your mind is not open for a fair and impartial consideration of the evidence?

42. Does anyone have any problems with his or her hearing or sight or any other medical problem which would impair his or her ability to devote full attention to this trial?

43. Is there anybody who does not want to be a juror in this case?

44. The law requires that you base your verdict on the facts as you find them from the evidence. The law does not permit you to consider any emotion, such as sympathy, prejudice, vengeance, fear or hostility. Is there anybody there who feels that he or she cannot put these emotions out of his or her mind when deliberating on a verdict?

45. Your duty, as jurors, is to determine the facts and find the guilt or innocence of the defendant based on the evidence. It is my duty, as judge, to instruct you on the law and to determine punishment if you vote guilty. The law does not permit you to consider the issue of punishment because there are factors having nothing to do with this trial which will determine the appropriate punishment. Would any of you vote "not guilty," no matter what the evidence indicates, because a conviction for this crime may result in a jail sentence, even though you do not know whether it will or will not?

46. Have any of you developed feelings or attitudes as a result of publicity surrounding certain high visibility trials and other proceedings that would affect your ability to fairly sit on this jury and determine the result based only on the law as I explain it to you and only on the admissible evidence put before you?

47. Can any of you think of any reason, of any nature, that, if you were chosen to sit on this jury, might prevent you from being able to render a fair and impartial verdict based solely on the evidence and the law as the court will instruct at the conclusion of this case?

48. Do any of you have any questions?